

### **REMARKS/ARGUMENTS**

Applicant appreciates the thorough examination of the present application, as evidenced by the second Official Action on the merits. Following a Restriction Requirement and election, Claims 16-31 are pending and under consideration. The second Official Action rejects Claims 16, 17 and 24-26<sup>1</sup> under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,452,644 to Shimakawa et al., in view of U.S. Patent Application Publication No. 2004/0244030 to Boyce et al. The Official Action rejects Claims 18-20 as being unpatentable over Shimakawa in view of Boyce, and further in view of European Patent Application Publication No. EP 0975109 to Suzuki; rejects Claim 21 as being unpatentable over Shimakawa in view of Boyce, and further in view of U.S. Patent No. 7,383,561 to Nelger et al.; and rejects Claim 23 as being unpatentable over Shimakawa in view of Boyce, and further in view of U.S. Patent No. 7,167,895 to Connelly. Then, the Official Action rejects Claims 27 and 28 as being upatentable over Schimakawa, in view of U.S. Patent Application Publication No. 2005/0120197 to Bons et al.; rejects Claims 29 and 30 as being upatentable over Shimakawa in view of Bons, and further in view of U.S. Patent Application Publication No. 2002/0021809 to Salo et al.; and rejects Claim 31 as being unpatentable over Shimakawa in view of Bons, and further in view of Nelger.

Initially, Applicant notes that the Official Action fails to substantively treat Claim 22; and accordingly, Applicant presumes that Claim 22 is allowed or allowable, and respectfully requests an indication as such in the next official communication from the Patent Office. For the remaining claims under consideration, Applicant respectfully submits that the claimed invention is patentably distinct from Shimakawa, Boyce, Suzuki, Nelger, Connelly, Bons and Salo, taken individually or in any proper combination. Nonetheless, Applicant has amended various ones of the claims to further clarify the claimed invention (including cancellation of withdrawn Claims 14, 15 and 34), and has added new Claims 36-46 to recite further patentable features. Support for the amendments to independent Claims 16, 24 and 26 may be found, for example, on the last line of page 6 and the first two lines of page 7 of the PCT application as published. In view of

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<sup>1</sup> The Official Action also cites Claim 27 as being rejected over the combination of Shimakawa and Boyce, but does not substantively treat Claim 27 under this rejection. Applicants therefore presume that this citation of Claim 27 was made in error.

the amendments to the claims, the added claims and the remarks presented below, Applicants request reconsideration and allowance of all of the pending claims of the present application.

***A. Claims 16-21, 23-26 and 36-43 are Patentable***

The Official Action rejects Claims 16-21 and 23-26 as being unpatentable over Shimakawa in view of Boyce, alone or further in view of Suzuki, Nelger or Connelly. Applicant addresses the claims in their respective combinations of the aforementioned references.

***1. Claims 16, 17 and 24-26***

As indicated above, second Official Action rejects Claims 16, 17 and 24-26 as being unpatentable over Shimakawa, in view of Boyce. Briefly, Shimakawa discloses a broadcast system comprising a receiver configured to receive an electronic programming guide EPG (alleged “control messages” of the claims) and information about when the next EPG will be sent and also configured to power up to receive the next EPG. In contrast to amended independent Claims 16, 24 and 26, however, Shimakawa does not disclose that the EPG comprises “information for determining whether a user has the necessary subscriptions in place to view the broadcast.”

Boyce discloses an EPG with a program ranking for allowing parents to determine whether a child is allowed to view certain programs. Similar to Shimakawa, Boyce also fails to disclose that the EPG comprises “information for determining whether a user has the necessary subscriptions in place to view the broadcast.” The ranking in the EPG of Boyce does not indicate information for determining whether the necessary subscriptions are in place. They only provide information that allows a user that already has the necessary subscriptions in place to adjust the settings on the user side such that only some programmes can be viewed by particular users. Consequently, Boyce does not cure the deficiencies of Shimakawa and amended independent Claims 16, 24 and 26 cannot be considered obvious over a combination of Shimakawa and Boyce.

Applicant therefore submits that amended independent Claims 16, 24 and 26, and by dependency Claims 17-23, 25 and 36-43, are patentably distinct from Shimakawa and Boyce,

taken individually or in any proper combination. And for at least the foregoing reasons, Applicant submits that the rejection of Claims 16, 17 and 24-26 as being unpatentable over Shimakawa, in view of Boyce is overcome.

**2. Claims 18-20**

The Official Action rejects Claims 18-20 as being unpatentable over Shimakawa in view of Boyce, and further in view of Suzuki. As explained above, amended independent Claims 16, 24 and 26, and by dependency Claims 17-23, 25 and 36-43, are patentably distinct from Shimakawa and Boyce, taken individually or in any proper combination. Applicant respectfully submits that Suzuki does not cure the deficiencies of Shimakawa and Boyce. That is, even considering Suzuki, none of Shimakawa, Boyce or Suzuki, taken individually or in any proper combination, teach or suggest the claimed invention of amended independent Claims 16, 24 and 26. Applicant therefore respectfully submits that amended independent Claims 16, 24 and 26, and by dependency Claims 17-23, 25 and 36-43, are patentably distinct from Shimakawa, Boyce and Suzuki, taken individually or in any proper combination.

For at least the foregoing reasons, Applicant submits that the rejection of Claims 18-20 as being unpatentable over Shimakawa in view of Boyce, and further in view of Suzuki is overcome.

**3. Claim 21**

The Official Action rejects Claim 21 as being unpatentable over Shimakawa in view of Boyce, and further in view of Nelger. As explained above, amended independent Claims 16, 24 and 26, and by dependency Claims 17-23, 25 and 36-43, are patentably distinct from Shimakawa and Boyce, taken individually or in any proper combination. Applicant respectfully submits that Nelger does not cure the deficiencies of Shimakawa and Boyce. That is, even considering Nelger, none of Shimakawa, Boyce or Nelger, taken individually or in any proper combination, teach or suggest the claimed invention of amended independent Claims 16, 24 and 26. Applicant therefore respectfully submits that amended independent Claims 16, 24 and 26, and by

dependency Claims 17-23, 25 and 36-43, are patentably distinct from Shimakawa, Boyce and Nelger, taken individually or in any proper combination.

For at least the foregoing reasons, Applicant submits that the rejection of Claim 21 as being unpatentable over Shimakawa in view of Boyce, and further in view of Nelger is overcome.

**4. Claim 23**

The Official Action rejects Claim 23 as being unpatentable over Shimakawa in view of Boyce, and further in view of Connelly. As explained above, amended independent Claims 16, 24 and 26, and by dependency Claims 17-23, 25 and 36-43, are patentably distinct from Shimakawa and Boyce, taken individually or in any proper combination. Applicant respectfully submits that Connelly does not cure the deficiencies of Shimakawa and Boyce. That is, even considering Connelly, none of Shimakawa, Boyce or Connelly, taken individually or in any proper combination, teach or suggest the claimed invention of amended independent Claims 16, 24 and 26. Applicant therefore respectfully submits that amended independent Claims 16, 24 and 26, and by dependency Claims 17-23, 25 and 36-43, are patentably distinct from Shimakawa, Boyce and Connelly, taken individually or in any proper combination.

For at least the foregoing reasons, Applicant submits that the rejection of Claim 23 as being unpatentable over Shimakawa in view of Boyce, and further in view of Connelly is overcome.

***B. Claims 27-31 and 44-46 are Patentable***

The Official Action rejects Claims 27-31 as being unpatentable over Shimakawa in view of Bons, alone or further in view of Salo or Nelger. Applicant addresses the claims in their respective combinations of the aforementioned references.

**1. Claims 27 and 28**

The Official Action rejects Claims 27 and 28 as being unpatentable over Schimakawa, in view of Bons. In contrast to independent Claim 27 (and similarly independent Claim 31),

Shimakawa does not disclose conditional access messages. In this regard, under no reasonable interpretation may electronic programming guides such as those disclosed by Shimakawa be considered conditional access messages such as those recited by the claimed invention. Moreover, as conceded by the Examiner, Shimakawa does not disclose "requesting transmission time information for conditional access messages to be transmitted in the future."

Bons discloses that EMM messages can be transmitted to terminals that expressly requested these messages. Bons, paragraph [0040]. But even if one could argue that Bons discloses that terminals can request EMM messages, Bons still does not disclose that the terminals can request transmission time information for conditional access messages to be transmitted in the future. Independent Claim 27 (and similarly independent Claim 31) recites "requesting transmission time information" and not "requesting conditional access messages." And at least for the reason that Bons does not disclose that its EMMs include any transmission time information, no request for such EMMs may be considered an implicit request for transmission time information. Consequently, Bons does not cure the deficiencies of Shimakawa.

Moreover, even if one could argue that Shimakawa and Bons disclose respective elements of the claimed invention, there is no apparent reason for their combination. Shimakawa discloses EPG messages which are very different to EMM messages. In this regard, EPG messages include information to be viewed by a subscriber, whereas EMM messages include information that is never seen by a subscriber but that is used by the system to work out whether necessary subscriptions are in place to access a broadcast. Shimakawa discloses that time information can also specify when other types of data, such as weather forecasts, news, stock prices, will be sent. However, the other types of data are also all meant to be viewed by the subscriber and are all very different to EMM messages. As such, the skilled person would not look to Bons to modify the communication of the EPGs and the other types of data in Shimakawa. The fact that EMMs are requested in Bons would not teach or suggest to the skilled person that timing information for the very different EPG messages in Shimakawa could be requested. Consequently, independent Claim 27 (and similarly independent Claim 31) cannot be considered obvious in view of a combination of Shimakawa and Bons.

Applicant therefore submits that independent Claims 27 and 31, and by dependency Claims 28-30 and 44-46, are patentably distinct from Shimakawa and Bons, taken individually or in any proper combination. And for at least the foregoing reasons, Applicant submits that the rejection of Claims 27 and 28 as being unpatentable over Shimakawa, in view of Bons is overcome.

2.        *Claims 29 and 30*

The Official Action rejects Claims 29 and 30 as being unpatentable over Shimakawa in view of Bons, and further in view of Salo. As explained above, independent Claims 27 and 31, and by dependency Claims 28-30 and 44-46, are patentably distinct from Shimakawa and Bons, taken individually or in any proper combination. Applicant respectfully submits that Salo does not cure the deficiencies of Shimakawa and Bons. That is, even considering Salo, none of Shimakawa, Bons or Salo, taken individually or in any proper combination, teach or suggest the claimed invention of independent Claims 27 and 31. Applicant therefore respectfully submits that independent Claims 27 and 31, and by dependency Claims 28-30 and 44-46, are patentably distinct from Shimakawa, Bons and Salo, taken individually or in any proper combination.

For at least the foregoing reasons, Applicant submits that the rejection of Claims 29 and 30 as being unpatentable over Shimakawa in view of Bons, and further in view of Salo is overcome.

3.        *Claim 31*

The Official Action rejects Claim 31 as being unpatentable over Shimakawa in view of Bons, and further in view of Nelger. As explained above, independent Claims 27 and 31, and by dependency Claims 28-30 and 44-46, are patentably distinct from Shimakawa and Bons, taken individually or in any proper combination. Applicant respectfully submits that Nelger does not cure the deficiencies of Shimakawa and Bons. That is, even considering Nelger, none of Shimakawa, Bons or Nelger, taken individually or in any proper combination, teach or suggest the claimed invention of independent Claims 27 and 31. Applicant therefore respectfully submits that independent Claims 27 and 31, and by dependency Claims 28-30 and 44-46, are

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patentably distinct from Shimakawa, Bons and Nelger, taken individually or in any proper combination.

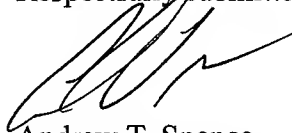
For at least the foregoing reasons, Applicant submits that the rejection of Claim 31 as being unpatentable over Shimakawa in view of Bons, and further in view of Nelger is overcome.

**CONCLUSION**

In view of the amendments to the claims, the added claims and the remarks presented herein, Applicant respectfully submits that the present application is in condition for allowance. As such, the issuance of a Notice of Allowance is therefore respectfully requested. In order to expedite the examination of the present application, the Examiner is encouraged to contact Applicant's undersigned attorney in order to resolve any remaining issues.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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